

June 2, 2010

Mr. Lou Felice
Chair, Health Care Reform Solvency Impact Subgroup

Mr. Steven Ostlund
Chair, Accident and Health Working Group, NAIC

Re: Medical Loss Ratios - Special Circumstances for Smaller Health Plans -
Via Email

Dear Messrs. Felice and Ostlund:

As a smaller health plan, we are writing to provide our unique perspective on the reporting requirements and calculation of the Minimum Loss Ratio (MLR) discussed in Section 2718 of the Patient Protection and Affordable Care Act (PPACA). Specifically, Section 2718 (c) requires the NAIC to consider the special circumstances of smaller plans, different types of plans, and newer plans when developing its methodologies. In addition, we believe that the PPACA was intended to promote and maintain competition in the health insurance industry, and smaller companies, such as ours, can play a key role to that end if it is properly implemented.

Reinsurance

As correctly noted by the NAIC in their May 12th response to Health and Human Services concerning the calculation of the MLR, smaller blocks of business are subject to significant variations in their experience, especially if there are large claims. As a result, smaller plans rely on reinsurance partners to assist with absorbing this risk. In contrast, larger plans generally have the capital and membership base to absorb higher levels of adverse claims experience. Thus, they tend to reinsure a smaller percentage of the premium volume.

Reinsurers also provide a host of valuable ancillary services as part of the reinsurance arrangement. Smaller carriers tend to utilize these services more than their larger counterparts. Examples include: assistance with pricing, general market information, such as, claims trends, assistance with compliance questions, etc.

Reinsurers charge premiums for these services, usually on an excess loss or quota share basis, which include their own administration expense and profit requirements. Generally, the expense and profit requirements decrease as a percentage of the premium as the size of the reinsured block increases; however, they are largely unknown and outside the control of the smaller carrier.

Regarding 2718, reinsurers are *not* obligated by Section 2718 to achieve an MLR or pay rebates; however, their expenses and profit charges *must* be included in the premium that is charged to the group or individual. Although smaller carriers do bid and compare reinsurers' rates for reasonability, the premiums are largely dictated by the reinsurer, the reinsurance market, and the need for a smaller company to have a long-term relationship with a good reinsurance partner.

Recommendation

We recommend that the premium in the denominator be adjusted to consider the impact of reinsurance. Specifically, we recommend removing the portion of the premium (after expense allowance) ceded to the reinsurer and including claims recovered from the reinsurer.

As an alternative, the claims in the numerator could be adjusted by removing the claims ceded to the reinsurer and adding, in its place, the premium (before expense allowance) ceded to the reinsurer. The premium in the denominator should already reflect any expense allowance, thus no adjustment is necessary.

These approaches recognize the crucial role of reinsurance to a smaller plan by addressing the expense of transferring the risk to a reinsurer. Both methods would also reduce a smaller carrier's potential MLR volatility.

PPACA Compliance and Taxes

Complying with the various requirements of the PPACA will require additional resources in terms of information technology and human resources. These additional resource requirements for a smaller plan are significant when compared to a larger plan. For Example, BEST Life currently has approximately 40 full time employees. Adding one person, particularly in IT, Finance, or Actuarial, can have a large impact on the expense ratio when compared to a larger company.

Recommendation

We recommend that expenses attributed complying with the PHSA be removed from the denominator in the MLR calculation.

In addition, we recommend that *all* taxes (e.g., property, Social Security, etc.) be removed from the denominator as smaller carriers typically operate on smaller profit margins before taxes and Federal and State taxation is completely outside the control of a smaller carrier. An increase in the level of taxation could potentially cause a smaller carrier to leave a state or the market entirely because they would not be able to meet the 80% MLR requirement and earn a reasonable profit due to a tax increase.

Commissions and Other Acquisition Expense

Smaller carriers often lack the brand recognition of larger carriers. Thus, in order to attain membership and compete, they typically market in rural areas underserved by larger carriers (due to a lack of volume) and pay higher commissions than larger carriers. These areas tend to be serviced by a few independent agents who are compensated entirely on commissions paid by the carrier.

In the future, smaller carriers will have to allocate a larger portion of the expense budgets toward developing their brands in order to prepare for 2014 and competing on an exchange.

Recommendation

We recommend that a portion of a small carrier's acquisition cost be removed from the denominator in the MLR calculation. This is to help the smaller carriers build their membership base and brands in order to compete in the exchange environment.

Loss Adjustment Expense (LAE)

We would like to reiterate several points made by other carriers in their comments regarding the issue of whether to include LAE as permissible expenses:

- Permitting them is consistent with the NAIC's current definition for claims and claims adjustment expense (SAP 85),
- Permitting them is consistent with the requirements of Section 2718 (a), and
- Not permitting them favors staff model HMOs over PPO plans.

Recommendation

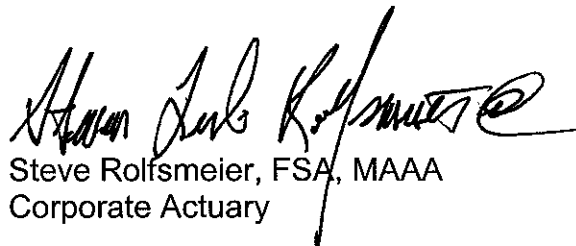
We recommend adopting the NAIC's definition for claims and claims adjustment expense (SAP 85).

Although the above recommendations are by no means exhaustive, we do believe they are key considerations for many small health plans such as ours, and, if implemented, will help ensure smaller health plans', both existing and start-ups, contributions to a competitive marketplace.

Sincerely,



Don Lawrenz
President



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